S.B. CIVIL WRIT PETITION NO.2274/2003
(Narayan Lal Balotiya vs. State of Raj. & Ors.)

Date :: 08.03.2006

HON'BLE MR. JUSTICE R.C. GANDHI

Mr.Anil Kaushik, for the petitioner.
Mr.Shyam Ladrecha, for the respondents.

Petitioner seeks direction to the respondents Nos.3 and 4 to forward the LPC and service records to the place where he is presently posted so as to draw his regular monthly salary. He also seeks compensation for not sending his LPC.

Petitioner was transferred vide impugned order dated 17.02.2001. He has challenged the imugned order on the ground that he was engaged in CENSUS Work since 2001 and the Government has imposed a ban on transfer of such employees.

The Rajasthan Appellate Tribunal disposed of the petition directing that the petitioner should file a representation to the respondent Department. Aggrieved of the order of Tribunal, the petitioner preferred S.B. Civil Writ Petition No.1170/2002 before this Court, which also came to be dismissed.

Thereafter, petitioner challenged the order of the learned Single Judge by way of Special Appeal before the Division Bench of this Court, which also came to be dismissed.

Thereafter, petitioner as per the direction of the Tribunal filed a representation before the Director, Social Welfare

Department, Jaipur and the Director vide its communication dated 15.02.2001 communicated to the petitioner that he has been transferred in view of his longer stay and in the interest of administrative exigencies. Petitioner was relieved on 22nd May, 2001, but his LPC has not been forwarded.

Respondents have filed the reply stating therein that after relieving of the petitioner, he did not hand over the charge of this post. The Director during his visit on 03.06.2001 issued instructions to take over the charge after preparing Panchnama.

Petitioner was also served notice dated 03.06.2001 by the Director, directing the petitioner to hand over the charge. Even after this notice, he did not bother. Thereafter, the charge was taken over by preparing Panchnama. While taking over the charge, it was found that stamp stock register, FVC file 2000-2001, ledger, and other important record and articles were found missing. Inquiry under Rule 16 of the CCA Rules was initiated against the petitioner and charge-sheet has been served. The petitioner is facing inquiry. It is also stated by the respondents that the petitioner during his duty was also not punctual and remain absent. He has joined his duties at Jaisalmer. The LPC has not been issued by the respondents for the reason that proper charge has not been handed over by the petitioner.

Heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner has submitted that the respondents have not stated in the reply that under any particular law or the rules, the LPC can be retained. LPC is issued in a proforma prescribed for the purpose. The things required to be notices in the LPC can be specified therein.

Learned counsel for the respondents is not in a position to make out that in the said proforma of LPC there is any column or condition which places an obligation that if proper charge is not handed over by the transferee and despite that he joins, in that event, LPC cannot be issued or salary can be withheld. The pay of the employee cannot be withheld for any reason unless any penalty for withholding salary is imposed. Petitioner has been getting the pay at his transferee post. The respondents should not have withheld the LPC of the petitioner for the reason stated by the respondents in their objections, which could not be substantiated.

The petition is, therefore, disposed of directing the respondents that in case there is any column in the LPC for withholding salary for the said reason, that if the charge is not handed over the LPC cannot be issued, otherwise, the respondents shall issue the LPC of the petitioner within four weeks.

[R.C. GANDHI],J.

Ashwini/-